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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Kevin A. Layne

Title: COLLECTION AGENCY DATA ACCESS METHOD

Docket No.: 1148.002US1

Serial No.: 09/435,198

Filed: November 5, 1999

Due Date: November 7, 2004

Examiner: Elaine L. Gort

Group Art Unit: 3627

Mail Stop Appeal Brief--Patents

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

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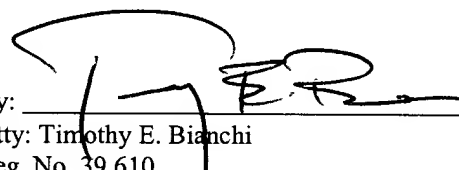
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(GENERAL)



8/N 09/435,198

PATENT

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Applicant:	Kevin A. Layne	Examiner: Elaine Gort
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APPELLANT'S REPLY BRIEF UNDER 37 C.F.R. § 41.41

Mail Stop Appeals
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P.O. Box 1450
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This Reply is presented in response to the Examiner's Answer, dated September 7, 2004, which was sent in answer to Appellant's Brief on Appeal, filed on May 24, 2004. Appellant's Brief on Appeal was filed in response to the rejection of claims 1-21 of the above-identified application.

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REPLY

The Examiner's Answer Brief, ("Answer") dated September 7, 2004, includes substantially identical grounds for rejection as the last Final Office Action. Appellant respectfully maintains that the Appeal Brief, which is hereby incorporated by reference and reasserted in response, overcomes these grounds of rejections. As such, this Reply Brief includes additional comments in reply to the "Response to Argument" section beginning on page 5 of the Answer.

Claim 1

With regard to claim 1, Appellant submits the arguments set forth in the Appeal Brief filed May 24, 2004 traverse the rejections set forth in the Answer. These arguments from the Appeal Brief are herein incorporated by reference and an order to withdraw the rejection of claim 1 is respectfully requested.

Claim 3

With regard to claim 3, the Answer fails to assert that the combination of Smith (U.S. Patent 5,822,400, hereinafter "Smith"), Goode (U.S. Patent 6,163,272, hereinafter "Goode"), and Blenheim Debt Agency (hereinafter "Blenheim") teach a common gateway interface. Indeed, it appears that the Answer is now in agreement with Appellant's assertion, as the rejection has now focused on a form of Official Notice that a common gateway interface is known in the art. Appellant respectfully traverses these assertions, since: (1) the correct legal standard is not asserted--the test is whether it would have been known by one of skill in the art at the time of invention to have combined such teachings; and (2) the Answer provides no evidentiary basis for making the claim that it would have been obvious. Appellant also respectfully traverses the assertion that Appellant has not defined how it is patentably distinct. For instance, Appellant argued the patentability of claim 1, which was referenced, and Appellant argued that the references failed to teach the subject matter recited in claim 3. Thus, an order to withdraw the rejection of claim 3 is respectfully requested.

Claim 4

With regard to claim 4, it appears the Answer is again taking a form of Official Notice, which is respectfully traversed. For instance, the correct legal standard is not asserted--the test is whether it would have been known by one of skill in the art at the time of invention to have combined such teachings. As such, it is respectfully submitted that the argument in the Answer is deficient. Thus, an order to withdraw the rejection of claim 4 is respectfully requested.

Claim 10

With regard to claim 10, the Answer appears to be taking a form of Official Notice, which is respectfully traversed. For instance, the correct legal standard is not asserted--the test is whether it would have been known by one of skill in the art at the time of invention to have combined such teachings. As such, it is respectfully submitted that the argument in the Answer is deficient. Thus, an order to withdraw the rejection of claim 10 is respectfully requested.

Claim 15

With regard to claim 15, the Answer again appears to be taking a form of Official Notice, which is respectfully traversed. For instance, the correct legal standard is not asserted--the test is whether it would have been known by one of skill in the art at the time of invention to have combined such teachings. As such, it is respectfully submitted that the argument in the Answer is deficient. Thus, an order to withdraw the rejection of claim 15 is respectfully requested.

Claim 5

With regard to claim 5, Appellant respectfully submits that the combination of references fail to teach records thereby serving to group the data items into data entities with each of such data entities being associated with a particular account, as recited in claim 5. It is believed that this was stated in Appellant's brief on at least Page 11. Thus, it is respectfully submitted that the assertions of the Answer are traversed. Thus, an order to withdraw the rejection of claim 5 is respectfully requested.

Claim 18

With regard to claim 18, Appellant respectfully submits that the combination of references fail to teach allowing for differential client access to accounts owned by a client among representatives of the client in accordance with a management structure of the client, as recited in claim 18. It is believed that this was stated in Appellant's brief on at least Page 11. Thus, it is respectfully submitted that the assertions of the Answer are traversed. Thus, an order to withdraw the rejection of claim 18 is respectfully requested.

Assertions of "First Time Argued"

Appellant notes numerous assertions in the Answer that arguments were presented in the Appeal Brief for the first time. Appellant strongly objects to such assertions, since Appellant timely requested withdrawal of finality on the basis of vagueness of the rejections in the Final Office Action. Appellant further submits that the rejections in the Final Office Action, as well as the grounds for rejection of the Answer Brief, are incomplete as failing to address the dependent claims. Thus, the rejections appeared to be vague and incomplete by addressing only

independent claim 1, and without merit. Accordingly, Appellant requested withdrawal of finality and for more specific grounds of rejection, or allowance, of the pending claims. (See Response Under 37 C.F.R. 1.116, dated October 17, 2003). Thus, Appellant maintains that an opportunity was not afforded to address clarified rejections.

Furthermore, it is believed that under the new rules promulgated by the Office arguments submitted for the first time within an Appeal Brief are not improper. Under the new rules for Ex Parte Appeal, published August 12, 2004 and effective September 13, 2004, there are no restrictions against submitting new arguments in an Appellant's Appeal Brief. 37 C.F.R. § 41.30 et. seq. Thus, it is believed that for at least both of these reasons the "first time argued" assertions in the Answer are not relevant.

Assertions relating to Patentability

Appellant respectfully traverses the numerous assertions that "Appellant has not defined how this is patentably distinct and how this is advantageous over the prior art." Appellant respectfully submits that it has maintained the patentability of all pending claims throughout prosecution and in the responses to various actions by the Office. Furthermore, it has been argued that claim 1 is patentable and Appellant submitted that the dependent claims further delineate patentable subject matter. Had the Office provided detailed rejections of dependent claims 2-21, Appellant would have had an opportunity both to address such detailed rejections and to overcome them.

Conclusion

The pending claims subject to this appeal are believed patentable. Appellant respectfully submits the claims are in condition for allowance and requests the Board issue an order to withdraw the rejections of claims 1-21.

Respectfully submitted,

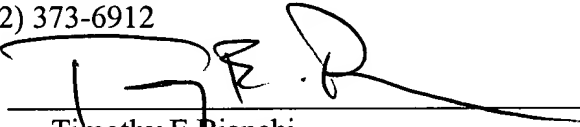
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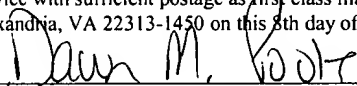
Date Nov. 8, 2004

By


Timothy E. Bianchi
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